Supreme Court, U.S.
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No. 96 176 JUL 17 1996

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In The

Supreme Court of the United States

October Term, 1995

MARY M. PRESSLEY, Personal Representative for the Estate of Alvin J. Pressley, Deceased,

Petitioner,

vs.

METROPOLITAN LIFE INSURANCE COMPANY, and BARBARA J. PRESSLEY,

Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI

FRANK D. McALPINE
Counsel of Record
REGINA R. BAILEY
CHRISTOPHER J. BELLMORE
Attorneys for Petitioner
216 North Chestnut
Suite Two
Lansing, Michigan 48933
(517) 482-9438

9182
Lutz Appellate Services, Inc.
(800) 3 APPEAL • (800) 5 APPEAL • (800) BRIEF 21

37pp

QUESTION PRESENTED

Alvin Pressley died in 1992 leaving his ex-wife, Barbara, beneficiary on his employer provided and ERISA controlled life insurance policy. The 1984 Divorce Judgment between Alvin and Barbara provided all rights of either party in life insurance benefits was extinguished. Barbara Pressley and Alvin Pressley's Estate both claimed the life insurance proceeds.

The lower court held the terms of the Divorce Judgment were preempted by ERISA and the ex-wife Barbara was entitled to the life insurance proceeds. The question presented here is:

Is alienation and/or waiver of welfare benefits permissible under ERISA?

LIST OF PARTIES

The Petitioner is Mary M. Pressley as Personal Representative of the Estate of Alvin J. Pressley, Deceased. Metropolitan Life Insurance Company and Barbara J. Pressley are the Respondents.

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Mary M. Pressley, as Personal Representative of the Estate of Alvin Pressley, prays that a Writ of Certiorari issue to review the Judgment and Opinion of the United States Court of Appeals for the Sixth Circuit, entered in this proceeding on April 18, 1996, in order to resolve the conflict between the United States Circuit Courts of Appeals on the important issues presented herein.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Sixth Circuit appears at *Metropolitan Life Insurance Co. v. Pressley*, 82 F.3d 126 (6th Cir. 1996). It is reprinted in Appendix B hereto (3a), by Order filed April 18, 1996. The Sixth Circuit denied the Suggestion for Rehearing En Banc (App. A, 1a). The decision and order of the District Court (App. C, 13a) is not published.

STATEMENT OF JURISDICTION

A Judgment of the Court of Appeals was entered on April 18, 1996 (App. 3a). The Court of Appeals Order denying Petitioner's Suggestion for Rehearing En Banc was entered on June 7, 1996 (App. A, 1a).

The jurisdiction of the court is invoked pursuant to 28 U.S.C. § 1254(1).

STATUTES INVOLVED

Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1104 *et seq.*:

§1104. Fiduciary duties

(a) Prudent man standard of care

(1) Subject to sections 1103(c) and (d), 1342, and 1344 of this title, a fiduciary shall discharge his duties with respect to plan soley in the interest of the participants and beneficiaries and

(A) for the exclusive purpose of:

(i) providing benefits to participants and their beneficiaries; and

(ii) defraying reasonable expenses of administering the plan;

(B) with the care, skill prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matter would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of this subchapter and subchapter lll of this chapter.

Michigan Comp. Laws, Section 552.101:

> **552.101 Divorce Decree: Provision in lieu of dower; determining rights of wife or husband in and to policy of life insurance, endowment or annuity; discharge of liability on policy.**

STATEMENT OF THE CASE

The facts of this case are undisputed. Alvin Pressley, an employee of General Motors, participated in a company life insurance plan (the "Plan") subject to the Employee Retirement Income Security Act of 1974 ("ERISA") 29 U.S.C. § 1001 *et seq.* The Plan provides, in pertinent part, as follows:

> If the Employe [sic] dies while insured for Basic Life Insurance under the Group Policy, the amount of the Basic Life Insurance in force on account of the Employe [sic] at the date of the Employe's [sic] death shall be paid to the Beneficiary of record.
>
> * * *
>
> The Beneficiary is the person or persons designated by the Employe [sic], on a form approved by the Insurance Company and filed with the records maintained in connection with the insurance under the Group Policy, to receive upon the Employe's [sic] death the amount of Basic Life Insurance then payable. The Employe [sic] may change the Beneficiary at any time by filing written notice thereof on such a form

> with the Employer, or the Insurance Company. Consent of the Beneficiary shall not be requisite to any change of Beneficiary.

On March 5, 1979, Alvin Pressley designated his wife, Barbara Pressley, as beneficiary of the plan.

Approximately five years later, on September 7, 1984 a Judgment of Divorce was entered between Alvin Pressley and Barbara Pressley. As required by Mich. Comp. Laws § 552.101, the divorce decree, provided in pertinent part, as follows:

> IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff and Defendant shall hereafter own any and all items of personal property including, but not limited to household furniture, bank accounts, pension or retirement funds, stock, bonds or insurance policies or pension plans now in his or her possession, free and clear of any claim hereto by the other; each shall hold the other harmless as to any debt thereon unless otherwise provided herein.
>
> * * *
>
> STATUTORY INSURANCE PROVISION
>
> IT IS FURTHER ORDERED AND ADJUDGED that any rights of either party in any policy or contract of life, endowment or annuity insurance of the other, as beneficiary, are hereby extinguished unless specifically preserved by this judgment.

On June 10,1993, Alvin Pressley died without having changed the beneficiary of the Plan. A basic life insurance benefit of $35,000 was payable to the beneficiary under the plan by Metropolitan Life Insurance Company. Barbara Pressley filed a claim with Metropolitan Life for the insurance benefits on July 22, 1993. As Personal Representative of Alvin Pressley's Estate, Alvin's mother, Mary Pressley, filed a claim for the same benefits on behalf of the Estate. On March 30,1994, Metropolitan Life filed a complaint in interpleader in the district court against Barbara Pressley and Mary Pressley (as Personal Representative of the Estate), and deposited the subject funds with the court.

Thereafter, Barbara Pressley moved for summary judgment. She argued that ERISA preempted state domestic relations law and she was entitled to the insurance benefits as a designated beneficiary of the Plan. In opposition, the Estate argued that ERISA does not preempt Michigan Comp. Laws § 552.101(2), which requires that "[e]ach judgment of divorce or judgment of separate maintenance shall determine all rights of the wife in and to the proceeds of any policy or contract of life insurance, endowment, or annuity upon the life of the husband in which the wife was named or designated as beneficiary," Mich. Comp. Laws § 552.101(2); the Estate further argued that even if ERISA preempted state domestic relations law the divorce decree constituted a waiver by Barbara Pressley of the insurance benefits.

On appeal, the United States Court of Appeals for the Sixth Circuit agreed with the district court holding that ERISA preempts Mich. Comp. Law § 552.101(2) and that under ERISA Alvin Pressley's designation of beneficiary controls. The Court though did go on to note that:

> Although they agree ERISA preempts state law regarding the designation of

> beneficiaries, the courts of appeals are split regarding the manner in which a beneficiary is then determined. *Brandon,* 18 F.3d at 1325. Most circuits that have considered the matter look to federal common law for the controlling principles. *See, e.g., Brandon,* 18 F.3d at 1326; *Fox Valley & Vicinity Constr. Workers Pension Fund,* 897 F.2d 275, 278-82 (7th Cir.), *cert. denied,* 498 U.S. 820 (1990). They hold that under federal common law a decedent's ex-spouse may waive her interest as beneficiary of the decedent's insurance plan.

The Sixth Circuit though, took a different view holding that ERISA supplies the rule of law citing *McMillan v. Parrot,* 913 F.2d 310, 311 (6th Cir. 1990). Section 440(a)(1)(D) of ERISA requires that a plan administrator discharge his duties "in accordance with the documents and instruments governing the plan . . ." 29 U.S.C. § 1104(a)(1)(D). The court then found that the plan administrators must follow the plan documents, and according to the plan documents the decedent's ex-wife was still the named beneficiary. Since the plan provided that upon death benefits shall be paid to beneficiary of record, the plan administrator was to look no farther than the named beneficiary on the plan.

REASONS FOR GRANTING THE WRIT

I.

THE SIXTH CIRCUIT'S OPINION DIRECTLY CONFLICTS WTH THE EIGHTH CIRCUIT'S RULING IN *CRYSLER* AND THE UNITED STATES SUPREME COURT RULING IN *MACKEY V. LANIER, ET AL.*

This Court should grant the writ in order to resolve a split between the federal circuit courts of appeals on two important questions concerning the broad sweep of ERISA preemption and whether an ERISA plan participant can alienate and/or waive welfare benefits.

Prior to ERISA conflicting claims as to insurance benefits were resolved under state law. The issues were not necessarily easy, but the law to be applied was reasonably discernable to attorneys representing insurers and claimants. Unfortunately, with the advent of ERISA esoteric legal issues like preemption and anti-alienation have left insurers and practitioners bewildered. The federal courts, preoccupied with the statutory complexities of ERISA, often seem to ignore an important task that had been performed, if not perfectly, at least efficiently, under state law - the fair resolution of conflicting, non-frivolous claims to plan benefits.

In the case before the Court, Alvin Pressley died 9 years after a Michigan divorce judgment terminated the legal and financial relationship between Barbara Pressley and Alvin Pressley. The property settlement agreement, pursuant to Mich. Comp. Laws § 552.101, extinguished any claim Barbara had to insurance proceeds. The United States District Court, when asked to resolve the conflicting claims between Barbara Pressley, the ex-wife, and the Estate (Alvin's children) the court found that Mich.

Comp. Laws § 552.101 was preempted by ERISA. This ruling that ERISA preempts a traditional area of state regulation runs contrary to *Equitable Life Assurance Society of the United States v. Crysler*, 66 F.3d 944 (8th Cir. 1995).

> . . . we have rejected the proposition that ERISA entirely preempts the effect of a state-law divorce decree on the rights of a welfare benefit plans' participants and beneficiaries. *See Lyman Lumber Co. v. Hill*, 877 F.2d 692, 693 (8th Cir. 1989), and the Supreme Court laid that proposition to rest in *Mackey*. See 486 U.S. at 839, 108 Supreme Court at 2190 ("Congress thought that some courts had erroneously construed [§ 1144(a)] as preempting [domestic relations] orders"). As *Mackey* made clear, congress has not prohibited the assignment or alienation of welfare plan benefits. Thus a state law divorce decree affecting or prohibiting such a transfer does not conflict with ERISA.

Obviously, the Sixth Circuit's decision in the present case and *McMillan v. Parrot*, 913 F.2d 310 (6th Cir. 1990) runs contrary to the decision in *Equitable Life Assurance Society v. Crysler, supra.* Other circuits take a different view and although they hold that ERISA preempts state divorce decrees they go on to find that there is a "gap" in ERISA and fashion a federal common law right which allows a court to enforce voluntary waivers. *See Brandon v. Travelers Insurance Co.*, 18 F.3d 1321 (5th Cir. 1994).

These three approaches by various circuit courts are irreconcilable. The Sixth Circuit takes the narrow view that plan administrators must follow plan documents and award the life insurance proceeds to the designated beneficiary. *See McMillan*

v. Parrott, 913 F.2d 312; *Metropolitan Life Insurance Co. v. Pressley*, 82 F.3d 126 (6th Cir. 1996). The Eighth Circuit, following what it feels are the directions from the Supreme Court in *Mackey v. Lanier Collection Agency and Service, Inc.*, 486 U.S. 825 (1988), holds that an assignment or alienation of welfare plan benefits is not prohibited and thus a state law divorce decree affecting or prohibiting such transfer does not conflict with ERISA. Proceeds are distributed according to the terms of the divorce decree. Finally, you have the Fifth, Tenth and Seventh circuits which hold that ERISA preempts state law regarding the designation of beneficiaries but since ERISA gives no direction regarding how to determine a beneficiary when there are conflicting claims, these circuits then look to federal common law for the controlling principles. The conflict between these circuits is clear and irreconcilable. Plan administrators cannot safely distribute plan benefits without first seeking guidance from the court. Since the conflict is clear and irreconcilable, certiorari is appropriate.

CONCLUSION

For the foregoing reasons, the petition for writ of certiorari should be granted.

Respectfully submitted,

FRANK D. McALPINE
Counsel of Record
REGINA R. BAILEY
CHRISTOPHER J. BELLMORE
Attorneys for Petitioner
216 N. Chestnut, Suite 2
Lansing, MI 48933
(517) 482-9438

APPENDIX A — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT FILED JUNE 7, 1996

No. 94-2093

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

METROPOLITAN LIFE INSURANCE COMPANY,

Plaintiff,

v.

MARY M. PRESSLEY, PERSONAL REPRESENTATIVE FOR THE ESTATE OF ALVIN J. PRESSLEY, DECEASED,

Defendant-Appellant,

BARBARA J. PRESSLEY,

Defendant-Appellee.

ORDER

BEFORE: ENGEL, KENNEDY, and SUHRHEINRICH, Circuit Judges.

The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

Appendix A

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT

s/ Leonard Green
Leonard Green, Clerk

APPENDIX B — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT FILED APRIL 18, 1996

No. 94-2093

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

METROPOLITAN LIFE INSURANCE COMPANY,

Plaintiff,

v.

MARY M. PRESSLEY, Personal Representative for the Estate of Alvin I. Pressley, Deceased,

Defendant-Appellant,

BARBARA J. PRESSLEY,

Defendant-Appellee.

Decided and Filed April 18, 1996

ON APPEAL from the United States District Court for the Eastern District of Michigan

Before: ENGEL, KENNEDY, and SUHRHEINRICH, Circuit Judges.

ENGEL, Circuit Judge. This is an interpleader action in which Defendant-Appellant Mary M. Pressley, as Personal Representative of the Estate of Alvin Pressley, appeals the

decision of the district court granting summary judgment against the estate and in favor of Barbara Pressley, awarding the benefits of Alvin Pressley's insurance plan to Barbara Pressley. For reasons set out below, we AFFIRM.

FACTS

The facts of this case are undisputed. As an employee of General Motors, Alvin Pressley ("Alvin") participated in a company life insurance plan (the "Plan") subject to the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.* The Plan provides, in pertinent part, as follows:

> If the Employe [sic] dies while insured for Basic Life Insurance under the Group Policy, the amount of Basic Life Insurance in force on account of the Employe [sic] at the date of the Employe's [sic] death shall be paid to the Beneficiary of record.
>
> . . . .
>
> The Beneficiary is the person or persons designated by the Employe [sic], on a form approved by the Insurance Company and filed with the records maintained in connection with the insurance under the Group Policy, to receive upon the Employe's [sic] death the amount of Basic Life Insurance then payable. The Employe [sic] may change the Beneficiary at any time by filing written notice thereof on such a form

> with the Employer, or the Insurance Company. Consent of the Beneficiary shall not be requisite to any change of Beneficiary.

(J.A. at 101.) On March 5, 1979, Alvin designated his wife Barbara Pressley ("Barbara") as beneficiary of the Plan.

Approximately five years later, on September 7, 1984, a Judgment of Divorce (the "Divorce Decree") was entered between Alvin and Barbara. As required by Mich. Comp. Laws § 552.101, the Divorce Decree provides, in pertinent part, as follows:

> IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff and Defendant shall hereafter own any and all items of personal property including, but not limited to household furniture, bank accounts, pension or retirement funds, stock, bonds or insurance policies or pension plans now in his or her possession, free and clear of any claim thereto by the other; each shall hold the other harmless as to any debt thereon unless otherwise provided herein.
>
> . . . .
>
> *STATUTORY INSURANCE PROVISION*
>
> IT IS FURTHER ORDERED AND ADJUDGED that any rights of either party in any policy or contract of life, endowment or annuity insurance of the other, as beneficiary,

> are hereby extinguished unless specifically preserved by this judgment.

(J.A. at 52.) Although it is a state court domestic relations order, the Divorce Decree does not qualify as a domestic relations order expressly exempt from ERISA preemption (a "QDRO"). *See* 29 U.S.C. § 1056(d)(3).

On June 10, 1993, Alvin died without having changed the beneficiary of the Plan. A basic life insurance benefit of $35,000 was payable to the beneficiary under the Plan by Metropolitan Life Insurance Company ("Met Life").

Barbara filed a claim with Met Life for the insurance benefits on July 22, 1993. As Personal Representative of Alvin's estate (the "Estate"), Alvin's mother, Mary Pressley ("Mary"), filed a claim for the same benefits on behalf of the Estate. On March 30, 1994, Met Life filed a complaint in interpleader in district court against Barbara and Mary (as Personal Representative of the Estate), and then deposited the subject funds with the court.

Thereafter, Barbara moved for summary judgment. She argued that ERISA preempted state law and that she was entitled to the insurance benefits as the designated beneficiary of the Plan. In opposition, the Estate argued that ERISA does not preempt Mich. Comp. Laws § 552.101(2), which requires that "[e]ach judgment of divorce or judgment of separate maintenance shall determine all rights of the wife in and to the proceeds of any policy or contract of life insurance, endowment, or annuity upon the life of the husband in which the wife was named or designated as beneficiary," Mich. Comp. Laws § 552.101(2); the divorce decree constituted a waiver by Barbara

of the insurance benefits; and even if ERISA preempts Mich. Comp. Laws § 552.101(2), the statute is saved as a regulation of insurance by the state. (J.A. at 178-79.)

The court granted summary judgment in favor of Barbara and awarded her the insurance benefits. The court held that ERISA preempted Michigan domestic relations law and ruled that the designation of Barbara as beneficiary of record controlled. (*Id.* at 190.) The court indicated that neither the statement of waiver in the Divorce Decree, nor Mich. Comp. Laws § 552.101(2), effected a waiver of Barbara's claim to the benefits. (*Id.*)

The Estate timely appealed.

DISCUSSION

Summary judgment is appropriate where there are no genuine issues of material fact in dispute and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *LaPointe v. United Airworkers Local 600*, 8 F.3d 376, 378 (6th Cir. 1993). As noted above, the facts in this case were undisputed, and the district granted judgment in favor of Barbara as a matter of law. We review the district court's grant of summary judgment de novo. *City Management Corp. v. United States Chem. Co.*, 43 F.3d 244, 250 (6th Cir. 1994).

Varying somewhat the approach it took below, the Estate makes essentially two arguments for reversal. First, the Estate contends that the district court erred in not applying federal common law to find that Barbara waived her interest in the insurance benefits. Second, the Estate contends that the Divorce Decree is a final judgment that cannot be collaterally attacked.

Appendix B

In support of affirmance of the district court's decision, Barbara advances essentially three arguments. First, Barbara argues that ERISA preempts Mich. Comp. Laws § 552.101(2) and that under ERISA Alvin's designation of beneficiary controls. Second, she argues that under federal common law, Alvin did not seek substantially to redesignate the beneficiary of his plan. Finally, Barbara argues that when an insured reserves the right to change the beneficiary of his group term life policy, the beneficiary has no extinguishable or waivable rights in the policy prior to the death of the insured.

Section 514(a) of ERISA provides that federal law shall supersede all state laws that relate to an ERISA plan. 29 U.S.C. § 1144(a). The sweep of this clause is expansive and must be given its broad, common sense reading. *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 45-48 (1987). The express preemption provisions of ERISA are designed to "establish pension plan regulation as exclusively a federal concern." *Alessi v. Raybestos-Manhattan, Inc.*, 451 U.S. 504, 523 (1981).

A law "relates to" an ERISA plan "if it has a connection with or reference to such plan." *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 96-97 (1983). Inasmuch as section 552.101(2) would determine the distribution of benefits under the Plan if applied in this case, it has a connection with or reference to Alvin's Plan, rendering ERISA preemptive. "[A] state law may 'relate to' a benefit plan, and thereby be pre-empted, even if the law is not specifically designed to affect such plans, or the effect is only indirect." *Ingersoll-Rand Co. v. McClendon*, 498 U.S. 133, 139 (1990) (quoting *Pilot Life*, 481 U.S. at 139); *Moore v. Philip Morris Co.*, 8 F.3d 335, 341 (6th Cir. 1993).

This Court, as well as other courts of appeals, has previously

decided that a designation of beneficiaries has a connection with or reference to an ERISA plan, preempting state law. *McMillian v. Parrot*, 913 F.2d 310, 311 (6th Cir. 1990); *see also Brandon v. Travelers Ins. Co.*, 18 F.3d 1321, 1325 (5th Cir. 1994), *cert. denied*, 115 S. Ct. 732 (1995); *Krishna v. Colgate Palmolive Co.*, 7 F.3d 11, 15 (2d Cir. 1993); *Metropolitan Life Ins. Co. v. Hanslip*, 939 F.2d 904, 906 (10th Cir. 1991); *Lyman Lumber Co. v. Hill*, 877 F.2d 692, 693 (8th Cir. 1989); *MacLean v. Ford Motor Co.*, 831 F.2d 723, 727 (7th Cir. 1987). *But see Metropolitan Life Ins. Co. v. Pearson*, 848 F. Supp. 1326 (E.D. Mich. 1994) (holding that ERISA does not preempt section 552.101).

Although they agree that ERISA preempts state law regarding the designation of beneficiaries, the courts of appeals are split regarding the manner in which a beneficiary is then determined. *Brandon*, 18 F.3d at 1325. Most of the circuits that have considered the matter look to federal common law for the controlling principles. *See, e.g., Brandon*, 18 F.3d at 1326; *Fox Valley & Vicinity Constr. Workers Pension Fund*, 897 F.2d 275, 278-82 (7th Cir.), *cert. denied*, 498 U.S. 820 (1990). They hold that under federal common law a decedent's ex-spouse may waive her interest as beneficiary of the decedent's insurance plan.[1] *See, e.g., Mohamed v. Kerr*, 53 F.3d 911, 914-16 (8th Cir.),

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1. Under this approach, Barbara might have waived her rights as designated beneficiary. To be effective, such a waiver of benefits — which is in addition to the kind of waiver incident to a qualified domestic relations order (or QDRO) — must meet certain criteria; it must specifically divest a spouse of the rights in question. *Brandon*, 18 F. 3d at 1327; *McMillan*, 913 F.2d at 312 (dicta); *Fox Valley*, 879 F.2d at 280-81; *Lyman Lumber*, 877 F.2d at 693-94; *see also Barker v. Wingo*, 407 U.S. 514, 525 (1972) (denning waiver, albeit in context of speedy trial right, as "an intentional relinquishment or abandonment of a known right or privilege" (quoting *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938)). The Divorce Decree entered between Barbara and Alvin

cert. denied, 116 S. Ct. 185 (1995); *Brandon*, 18 F.3d at 1326; *Fox Valley,* 897 F.2d at 279. *But see Fox Valley*, 897 F.2d at 282-85 (Bauer, Easterbook, Ripple, and Manion, JJ., dissenting).

The Sixth Circuit takes a different view and holds that ERISA itself supplies the rule of law. *McMillan v. Parrot,* 913 F.2d at 311. In *McMillan,* this Court considered essentially the same question that it faces in this case: whether under the provisions of ERISA the former spouse of a decedent waives her interest as designated beneficiary of the decedent by reason of a broad waiver of rights in the couple's divorce decree. The *McMillan* Court answered that "the explicit provisions of ERISA make clear that [the decedent's former spouse] did not effectively waive her interest as [the decedent's] beneficiary." 913 F.2d at 312.

Section 404(a)(1)(D) of ERISA requires that a plan administrator discharge his duties "in accordance with the documents and instruments governing the plan. . . ." 29 U.S.C. § 1104(a)(1)(D). The Court in *McMillan* found that section to establish a clear mandate that plan administrators follow plan documents to determine the designated beneficiary. 913 F.2d at 312. Accordingly, the Court held that the plan documents naming the decedent's ex-wife as beneficiary of the plan controlled, making her the decedent's beneficiary. *Id.*

(Cont'd)
did not refer to Alvin's insurance plan by name or number. However, it did refer to any "insurance policies or pension plans now in his or her possession" and "rights of either party in any policy or contract of life, endowment or annuity insurance of the other," which references are required by Mich. Comp. Laws § 552.101. (*See* J.A. at 52.)

Appendix B

Employment of that approach in this case produces a like result.[2] The Plan provides that "the amount of Basic Life Insurance in force on account of the Employe [sic] at the date of the Employe's [sic] death shall be paid to the Beneficiary of record Under the Plan, "the Beneficiary is the person or persons designated by the Employe [sic], on a form approved by the Insurance Company and filed with the records maintained in connection with the insurance under the Group Policy, to receive upon the Employe's [sic] death the amount of Basic Life Insurance then payable." As indicated above, Alvin designated Barbara as beneficiary of the Plan while they were married and never altered that designation in the manner prescribed by the Plan. Thus, under McMillan, Barbara is the proper beneficiary of Alvin's plan.[3]

Inasmuch as it applies, *McMillan* dictates the disposition of this case. We are not free to reject it in favor of some other approach. Accordingly, we must conclude that the district court did not err in holding that Barbara was entitled to Alvin's insurance benefits.

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2. We need not consider whether under federal common law, Alvin did not seek substantially to redesignate the beneficiary of his plan or whether, when an insured reserves the right to change the beneficiary of his group term life policy, the beneficiary has no extinguishable or waivable rights in the policy prior to the death of the insured.

3. The Estate's argument that the Divorce Decree is a final judgment that cannot be collaterally attacked is without merit. The gist of the argument is that 28 U.S.C. § 1738, which requires that state judgments be given "full faith and credit in every court within the United States . . . as they have by law or usage in the courts of such State . . . from which they are taken," mandates that the Divorce Decree operate as a waiver by Barbara of the benefits in question. While § 1837 is about full faith and credit, nothing in that section purports to do away with ERISA's preemption of state law. Moreover, the argument takes no account of *McMillan*.

Appendix B

CONCLUSION

For the reasons stated, the decision of the district court is AFFIRMED.

APPENDIX C—ORDER OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION DATED AUGUST 30, 1994

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Case No 94 CV 71240 DT
Hon. Anna Diggs Taylor

METROPOLITAN LIFE INSURANCE COMPANY,

Plaintiff,

- v s -

MARY M. PRESSLEY, as Personal Representative for THE ESTATE OF Alvin J. Pressley, Deceased, and BARBARA J. PRESSLEY,

Defendants.

LAW OFFICES OF BRIAN D. ALBRITTON, P.C.
By: BRIAN D. ALBRITTON (P46197)
Attorney for Defendant BARBARA J. PRESSLEY
10 W. Square Lake Road, Suite 306
Bloomfield Hills, MI 48302

PATTERSON, PHIFER & PHILLIPS, P.C.
By: RANDOLPH D. PHIFER (P25206)
Attorney for Plaintiff METLIFE

GEORGE V. WARREN (P21996)
Attorney for Defendant MARY M. PRESSLEY

Appendix C

ORDER

At a session of said Court, held at the U.S. District Court in the City of Detroit, Wayne County, Michigan, on

AUG 3 0 1994

PRESENT: HONORABLE ANNA DIGGS TAYLOR
U.S. District Court Judge

Upon the reading and filing of Co-Defendant, Barbara Pressley's Motion for Summary Disposition and the Court otherwise being fully advised in the premises;

IT IS HEREBY ORDERED that Co-Defendant, BARBARA PRESSLEY'S, Motion for Summary Disposition against Plaintiff, Metropolitan Life Insurance Company, and against Cross Complaintant, MARY M. PRESSLEY, as Personal Representative for THE ESTATE OF Alvin J. Pressley, Deceased, is GRANTED.

IT IS FURTHER ORDERED that the Clerk of the Court shall immediately disburse to Co-Defendant, BARBARA PRESSLEY, or her attorney of record, all life insurance proceeds and accumulated interest on deposit, and as reflected by DO Code 4639, Division No. 2, Account No. 604700, and Case No./ Def No. 2:94-CV-71240/0.

* * *

s/ Anna Diggs Taylor
United States District Court Judge

APPENDIX D — EXCERPT OF MOTION FOR SUMMARY JUDGMENT OR DISMISSAL DATED AUGUST 15, 1994

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CIVIL ACTION
NO. 94-CV-71240-DT

METROPOLITAN LIFE INSURANCE COMPANY,

Plaintiff,

v.

MARY M. PRESSLEY, AS PERSONAL REPRESENTATIVE FOR THE, ESTATE OF ALVIN J. PRESSLEY, DECEASED AND BARBARA J. PRESSLEY,

Defendants.

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT OR DISMISSAL
PLAINTIFF'S MOTION FOR DISCHARGE AND INJUNCTION

BEFORE THE HONORABLE ANNA DIGGS TAYLOR
United States District Judge
735 US Courthouse & Federal Building
231 Lafayette Boulevard West
Detroit, Michigan
Monday, August 15, 1994

Appendix D

APPEARANCES:

RANDOLPH D. PHIFER, ESQ.,
PATTERSON, PHIFER & PHILLIPS, P.C.
In behalf of the Plaintiffs.

BRIAN D. ALBRITTON, ESQ.,
LAW OFFICES OF BRIAN ALBRITTON, P.C.
In behalf of Defendant
Barbara Pressley.

GEORGE V. WARREN, ESQ.,
In behalf of Defendant
Mary Pressley.

* * *

[4] Detroit, Michigan

August 15, 1994

2:04 p.m.

– – –

LAW CLERK: Hearing case 94-70580, Metropolitan Life Insurance versus The Estate of Alvin Pressley and Barbara Pressley.

Defendant Barbara Pressley's motion for summary judgment and plaintiff's motion for order of discharge injunction and dismissal.

THE COURT: How are you?

MR. PHIFER: Good afternoon, Your Honor.

MR. ALBRITTON: Good morning, Your Honor. Your Honor, is this court going to hear the motion for summary judgment first or the interpleader motion?

THE COURT: I guess I should hear the interpleader, the request for discharge, then.

MR. PHIFER: Right. Good afternoon, Your Honor. Randolph Phifer, appearing on behalf of Metropolitan Life Insurance Company, the moving party on the motion for discharge and injunction and dismissal.

This is a relatively simple motion, Your Honor. Basically, MetLife is the insurer of the

* * *

[27] automatic waiver.

THE COURT: All right. I am going to enter judgment for Barbara Pressley.

The ERISA requirements to remove the parties' claim, the former beneficiary's claim, in a policy of life insurance were not met.

ERISA certainly preempts Michigan domestic relations law, and if the very vague and inadequate statement of waiver in the judgment of divorce is the claimed basis for waiver as well as

the Michigan statutory requirement of a waiver, the court is going to grant the judgment to Barbara Pressley.

It is insufficient the statement that any rights of either party in any insurance as beneficiaries are hereby extinguished does not meet the requirements that the statute makes for a qualified domestic relations order.

Therefore, the designation of Barbara Pressley in the beneficiary records of the policy remains effective and she is still the beneficiary of that policy.

And I think that the *McMillan* case makes it clear that our circuit is more demanding than the 7th in removing the rights of beneficiaries to ERISA-controlled insurance policies.

[28] So please present an order.

MR. ALBRITTON: Thank you, Your Honor. Thank you, Your Honor.

(This hearing concluded at 2:37 p.m.)

APPENDIX E — EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 ("ERISA")
29 U.S.C. § 1104 et seq.

§1104. Fiduciary duties

(a) Prudent man standard of care

(1) Subject to sections 1103(c) and (d), 1342, and 1344 of this title, a fiduciary shall discharge his duties with respect to plan soley in the interest of the participants and beneficiaries and —

(A) for the exclusive purpose of:

(i) providing benefits to participants and their beneficiaries; and

(ii) defraying reasonable expenses of administering the plan;

(B) with the care, skill prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matter would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

Appendix E

(D) in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of this subchapter and subchapter III of this chapter.

APPENDIX F — MICHIGAN COMPILED LAWS SECTION 552.101

PUBLIC

AND LOCAL ACTS

OF

THE LEGISLATURE

OF THE

STATE OF MICHIGAN

PASSED AT THE REGULAR SESSION OF 1982

Also Other Matters Required By Law
To Be Published with The Public Acts

Compiled By The
LEGISLATIVE SERVICE BUREAU

And Published By The
DEPARTMENT OF MANAGEMENT AND BUDGET

Appendix F

The People of the State of Michigan enact:

552.101. Judgment of divorce or separate maintenance; provision in lieu of dower; determination of spouses' rights in insurance proceeds, pension or retirement benefits

Sec. 1. (1) When any judgment of divorce or judgment of separate maintenance is granted in any of the courts of this state, it shall be the duty of the court granting the judgment to include in it a provision in lieu of the dower of the wife in the property of the husband, which provision shall be in full satisfaction of all claims that the wife may have in any property which the husband owns or may own in the future, or in which he may have any interest.

(2) Each judgment of divorce or judgment of separate maintenance shall determine all rights of the wife in and to the proceeds of any policy or contract of life insurance, endowment, or annuity upon the life of the husband in which the wife was named or designated as beneficiary, or to which the wife became entitled by assignment or change of beneficiary during the marriage or in anticipation of marriage. If the judgment of divorce or judgment of separate maintenance does not determine the rights of the wife in and to a policy of life insurance, endowment, or annuity, the policy shall be payable to the estate of the husband or to the named beneficiary if the husband so designates. However, the company issuing the policy shall be discharged of all liability on the policy by payment of its proceeds in accordance with the terms of the policy, unless before the payment the company receives written notice, by or on behalf of the insured or the estate of the insured or 1 of the heirs of the insured, or any other person having an interest in the policy, of a claim under the policy and the divorce.

(3) Each judgment of divorce or judgment of separate maintenance shall determine all rights of the husband in and to the proceeds of any policy or contract of life insurance, endowment, or annuity upon the life of the wife in which the husband was named or designated as beneficiary, or to which he became entitled by assignment or change of beneficiary during the marriage or in anticipation of marriage. If the judgment of divorce or judgment of separate maintenance does not determine the rights of the husband in and to the policy of life insurance, endowment, or annuity, the policy shall be payable to the estate of the wife, or to the named beneficiary if the wife so designates. However, the company issuing the policy shall be discharged of all liability on the policy by payment of the proceeds in accordance with the terms of the policy, unless before the payment the company receives written notice, by or on behalf of the insured or the estate of the insured or 1 of the heirs of the insured, or any other person having an interest in the policy, of a claim under the policy and the divorce.

(4) Each judgment of divorce or judgment of separate maintenance shall determine all rights of the husband and wife in and to all of the following:

(a) Any pension, annuity, or retirement benefits.

(b) Any accumulated contributions in any pension, annuity, or retirement system.

(c) Any right or contingent right in and to unvested pension, annuity, or retirement benefits.

Amended by P.A. 1982, No. 184, § 1, Imd. Eff. June 17; P.A. 1985, No. 42, § 1, Imd. Eff. June 13.